

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

Writ Petition (L) No. 2911 of 2004

K.S. Jhunjunwala ... Petitioner

vs.

Municipal Corporation and ors. ... Respondents

Mr. A.S. Khandeparkar with
Mr. S. Raje i/b. Pankaj C. Kansara for Petitioner
Mrs. A. R. Joshi for respondents.

CORAM: **F. I. REBELLO J.**

Date: October 28, 2004

P.C.

Rule. Heard forthwith.

The grievance of the petitioner is in respect of letter / order dated 19.10.2004 whereby the petitioners have been directed to remove the unauthorized work, failing which it was informed that the demolition of the structure would be carried out by the Corporation. The suit filed in respect of the structure was dismissed in the month of July 1998. The court is informed that the suit was dismissed for default. An

application was moved for restoration. In the meantime status quo order was made. At the hearing of the petition on behalf of the petitioner learned counsel makes a statement that the petitioner be given an opportunity to be heard before the Assistant Commissioner, D Ward, and to produce supporting documents for the purpose of satisfying that the structure is legal. It is submitted that the petitioner will withdraw the suit. Considering that the following order:

- (i) The Assistant Commissioner, D Ward, if the petitioner herein makes a representation within 15 days from today along with all supporting documents, to consider the same and dispose it of thereafter within a period of 15 days from the date of receipt of the representation.
- (ii) The representation will be heard, if at the time of hearing the petitioner produces the copy of a order of the Civil Court stating that the petitioner has withdrawn the application for restoration of the suit.
- (iii) In the meantime, till disposal of the representation, and for a period of 15 days from the receipt of the order by the petitioners, if the order is adverse to the interest of the petitioner, the respondents not to give

effect to the notice dated 19.10.2004.

Rule made absolute accordingly.

Parties to act on a duly authenticated copy of this order.

(F. I. Rebello J.)